

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

May 18, 2023

CLERK OF THE COURT

SPECIAL WATER MASTER
SHERRI ZENDRI

A. Parmar
Deputy

FILED: May 22, 2023

In re: the General Adjudication
Of All Rights to Use Water in the
Little Colorado River System and Source

Case No. CV6417-300

In Re: Navajo Nation

**MINUTE ENTRY
TRIAL DAY 13**

Courtroom 613 – East Court Building

8:57 a.m. This is the time set for Trial to Court regarding Phase 1 – DCMI and Stock/Wildlife Watering before Special Water Master Sherri Zendri.

The following attorneys appear in person:

- Jeffrey S. Leonard, Evan Hiller, Judith M. Dworkin and Candace French on behalf of the Navajo Nation
- Cody McBride on behalf of the United States Department of Justice
- Phillip Londen and Payslie Bowman on behalf of the Hopi Tribe
- Kate Shaffer on behalf of the San Juan Southern Paiute Tribe
- Bradley Pew, David Brown and Brian J. Heiserman on behalf of the LCR Coalition (“LCRC”)
- Katrina Wilkinson and Mark McGinnis on behalf of Salt River Project (“SRP”)
- Carrie Brennan on behalf of the Arizona State Land Department (“ASLD”)
- Chris Thomas, Lee Storey and Luke Erickson on behalf of the City of Flagstaff

Court Reporter, Cindy Mahoney, is present. A record of the proceedings is also made digitally.

LET THE RECORD REFLECT that Court Reporter, Cindy Mahoney, was previously sworn on the first day of trial.

Witness, Rex Kontz, is sworn and testifies.

Navajo Nation's exhibits 1294 and 1298 are received in evidence.

Discussion is held regarding the relevance of Navajo Nation's exhibit 1140. The exhibit is a picture of the Navajo Tribal Utility Authority's ("NTUA") building. The Court inquires why a picture of the building is necessary to admit. Counsel for the Navajo Nation, Mr. Leonard believes the photo's purpose shows economic growth.

Navajo Nation's exhibit 1140 is received in evidence.

Witness, Rex Kontz, testifies further.

Navajo Nation's exhibits 1101, 1104, 1289, 1290, 1291, 1292, 1299 and 1309 are received in evidence.

Witness, Rex Kontz, testifies further.

Counsel for LCRC, Mr. Heiserman, objects to Mr. Leonard questioning this witness as to what all customers of the NTUA want. The witness has no personal knowledge as to what all customers want.

The objection is sustained.

Counsel for the ASLD, Ms. Brennan, objects as to hearsay.

Counsel for Navajo Nation, Mr. Leonard, explains that the question is meant to show how the NTUA responds to customers' feedback.

The Court inquires if the NTUA asks for feedback from its customers and the witness affirms.

The objection is overruled.

10:30 a.m. The Court stands in recess.

10:45 a.m. The Court reconvenes with the above-named parties present.

Court Reporter, Cindy Mahoney, is present. A record of the proceedings is also made digitally.

Witness, Rex Kontz, testifies further.

Discussion is held regarding the relevance of City of Flagstaff's exhibits 49, 51, 52, 53 and 55. The Court inquires why they should be admitted.

Counsel for the City of Flagstaff, Mr. Thomas, explains that the exhibits are meant to show reclaimed water as another potential source of water and that he will tie the exhibits in with the witness' further testimony.

Counsel for the Navajo Nation, Mr. Leonard, expresses concern as to relevance and adds that the use of reclaimed water is not an issue that the experts have addressed in this matter.

Counsel for City of Flagstaff, Mr. Thomas, explains that Mr. Hill and Mr. Liechty both spoke about the use of reclaimed water as a potential water source in the future.

Mr. Leonard withdraws his concerns.

City of Flagstaff's exhibits 49, 51, 52, 53 and 55 are received in evidence.

Witness, Rex Kontz, testifies further.

The witness is excused.

12:00 p.m. The Court stands in recess.

1:27 p.m. The Court reconvenes with the above-named parties present.

Court Reporter, Cindy Mahoney, is present. A record of the proceedings is also made digitally.

Witness, Srinivasa Venigalla, is sworn and testifies.

LET THE RECORD REFLECT that Navajo Nation's exhibit 1464 plays in open court.

Witness, Srinivasa Venigalla, testifies further.

Navajo Nation's exhibit 1464 is received in evidence.

Witness, Srinivasa Venigalla, testifies further.

Counsel for Navajo Nation, Mr. Leonard, objects as to foundation to the witness opining on the plans of NTUA to incorporate water efficient designs for its buildings.

Counsel for City of Flagstaff, Mr. Thomas, states that he is inquiring as the witness' knowledge.

The objection is overruled.

Witness, Srinivasa Venigalla, testifies further.

The witness is excused.

2:33 p.m. The Court stands in recess to allow the court reporter to obtain the spellings needed from the witness.

2:35 p.m. The Court reconvenes with the above-named parties present.

Court Reporter, Cindy Mahoney, is present. A record of the proceedings is also made digitally.

Witness, Garrett Silversmith, is sworn and testifies.

Navajo Nation's exhibit 1320 is received in evidence.

3:00 p.m. The Court stands in recess.

3:16 p.m. The Court reconvenes with the above-named parties present.

Court Reporter, Cindy Mahoney, is present. A record of the proceedings is also made digitally.

Witness, Garrett Silversmith, testifies further.

Navajo Nation's exhibits 920, 1220, 1321, 1323 and 1329 are received in evidence.

Counsel for LCRC, Mr. Pew, objects to the witness being questioned on his knowledge of any Census issues as to foundation and disclosure. Mr. Pew states that this was asked of the witness at his deposition and he did not know.

Counsel for ASLD, Ms. Brennan, objects as to speculation.

Counsel for Navajo Nation, Mr. Leonard, is not asking the witness to opine on any Census issues and believes that if the witness answers in the affirmative then the objectors may question him on his deposition during cross examination.

The objections are sustained and Mr. Leonard is directed to establish appropriate foundation.

Witness, Garrett Silversmith, testifies further.

Counsel for Navajo Nation, Mr. Leonard, objects to Ms. Brennan, asking the question if every statement in the transportation report is accurate.

Counsel for ASLD, Ms. Brennan, does not believe she asked him to vouch for every statement but did ask if he reviewed the document for its accuracy.

LET THE RECORD REFLECT that the Court asks for Ms. Brennan's last two questions to be read back from the court report.

The objection is overruled.

The witness is excused.

Discussion is held regarding next week's witnesses.

3:49 p.m. This matter stands in recess until Monday, May 22, 2023.

A copy of this minute entry is provided to all parties on the Court approved mailing list.

NOTE: All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.